

The China National Intellectual Property Administration (“CNIPA”) formally announced on December 31, 2019 the newly amended Patent Examination Guidelines (“the Guidelines”) will come into effect on February 1, 2020. The Guidelines were amended to clarify eligible subject matter in patent applications involving artificial intelligence and other new industries.

### **Highlights**

1. Section 6 is added to Chapter 9 of Part II of the Guidelines, and regulates the examination of claims that include abstract features such as algorithm features or business method features.
2. When examining a claim, abstract features such as algorithm features or business method features should not be simply separated from technical features. The claim should be examined as a whole to analyze aimed technical problems, utilized technical means, and achieved technical effects.
3. If a claim merely includes abstract features without any technical features, the claim should be rejected as a rule or method of mental activity under Art. 25 of the Patent Law.
4. If a claim includes any technical features besides abstract features such as algorithm features or business method features, and as

a whole does not constitute a rule or method of mental activity, the claim should not be excluded under Art. 25 of the Patent Law and should be examined to see whether the claim constitutes a technical solution under Art. 2.2 of the Patent Law.

5. When examining whether a claim including algorithm features or business method features constitutes a technical solution, all features in the claim should be considered as a whole. If the claim aims at technical problems, utilizes natural laws as technical means, and achieves technical effects, the solution of the claim is determined as constituting a technical solution under Art. 2.2 of the Patent Law.
6. When assessing novelty or inventiveness of a claim, all features including both technical features and algorithm features or business method features should be considered as a whole.
7. Nine examination examples of claims that include algorithm features or business method features are provided.
8. The specification including algorithm features or business method features should clearly and completely describe the solution used to solve technical problems. On the basis of technical features, algorithm features or business method features should support each other and interact with the technical features.

9. Claims of patent applications involving algorithm features or business method features should recite the algorithm features or business method features that support each other and interact with technical features.